

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 DEMEITRUS WAYNE PATTERSON,

11 Petitioner,

12 vs.

13 STATE OF NEVADA, *et al.*,

14 Respondents.
15

Case No. 2:15-cv-00534-APG-NJK

ORDER

16
17 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
18 by a Nevada state prisoner.

19 Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the
20 petition. When filing a habeas action, petitioner must either submit the \$5.00 filing fee for habeas
21 petitions or an application to proceed *in forma pauperis*. Due to the lack of an *in forma pauperis*
22 application or filing fee, the present action will be dismissed without prejudice to the filing of a new
23 petition in a new action with a pauper application with all required attachments. It does not appear
24 from the papers presented that a dismissal without prejudice would result in a promptly-filed new
25 petition being untimely. In this regard, petitioner at all times remains responsible for calculating the
26 running of the limitations period as applied to his case and properly commencing a timely-filed
27 habeas corpus action.
28

1 **IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the
2 filing of **a new petition in a new action**.

3 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner the
4 following: one copy of the petition submitted at Dkt. #1, two copies of an *in forma pauperis*
5 application form for a prisoner, one copy of the instructions for the same, two copies of a blank 28
6 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.

7 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but
8 he may not file further documents in this action.

9 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable
10 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
11 debatable or wrong.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

13 Dated: April 13, 2015.

14
15
16 
17
18
19
20
21
22
23
24
25
26
27
28 UNITED STATES DISTRICT JUDGE